

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JON STEVENS,

Petitioner,

No. CIV S-04-2124 MCD GGH P

vs.

TERESA SCHWARTZ, Warden,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has filed a number of documents which indicate that he has not received respondent's answer, which was filed on May 20, 2005, and appears to have been properly served upon petitioner at his current address of record on that date.

On June 10, 2005, this court filed an order construing petitioner's June 3, 2005 request for a 30-day stay while he was out to court as a request for an extension of time to file a reply to an answer he had not yet received and granted him 60 additional days to file his reply. See Order filed on June 10, 2005. The order was served on petitioner at CMF-Vacaville and DVI.

Petitioner's subsequent filings, dated June 23, 2005, July 1, 2005, August 1, 2005 and September 8, 2005, indicate that petitioner has returned to CMF-Vacaville but has failed to

1 receive respondent's answer. The court will disregard plaintiff's filings to the extent that they are
2 wrongly premised on an assumption that respondent did not file and serve an answer. However,
3 due to petitioner's changes in location during the relevant time, the court will direct respondent
4 to re-serve petitioner at this time and will grant petitioner a 30-day extension of time from the
5 time the answer is re-served to file any reply.

6 Accordingly, IT IS ORDERED that:

7 1. Petitioner's inapposite requests, filed on June 23, 2005, July 1, 2005, August 1,
8 2005 and September 8, 2005, are denied;

9 2. Respondent, despite having apparently properly served petitioner at his current
10 address of record as of May 20, 2005, is directed, due to petitioner's having been out to court, to
11 re-serve petitioner, within 10 days, once again; and

12 3. Petitioner is granted a 30-day extension of time from the time of respondent's
13 re-service to file any reply.

14 DATED: 9/13/05

15 /s/ Gregory G. Hollows

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17 GREGORY G. HOLLOWS
18 UNITED STATES MAGISTRATE JUDGE

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